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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/686,325 10/11/00 GIBLIN

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000201  
UNILEVER  
PATENT DEPARTMENT  
45 RIVER ROAD  
EDGEWATER NJ 07020

QMO2/0523

EXAMINER

BUI, T  
ART UNIT PAPER NUMBER

3754  
DATE MAILED:

05/23/01

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Please find below and/or attached an Office communication concerning this application or proceeding.

**Commissioner of Patents and Trademarks**

## Office Action Summary

Application No. <b>09/686,325</b>	Applicant(s) <b>Giblin et al.</b>
Examiner <b>Thach Bui</b>	Art Unit <b>3754</b>

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

1)  Responsive to communication(s) filed on \_\_\_\_\_

2a)  This action is FINAL.      2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle* 1035 C.D. 11; 453 O.G. 213.

### Disposition of Claims

4)  Claim(s) 1-30 is/are pending in the application.

4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-30 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

11)  The proposed drawing correction filed on \_\_\_\_\_ is: a)  approved b)  disapproved.

12)  The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119

13)  Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a)  All b)  Some\* c)  None of:

1.  Certified copies of the priority documents have been received.
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

14)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

### Attachment(s)

15)  Notice of References Cited (PTO-892)      18)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_

16)  Notice of Draftsperson's Patent Drawing Review (PTO-948)      19)  Notice of Informal Patent Application (PTO-152)

17)  Information Disclosure Statement(s) (PTO-1449) Paper No(s). 5      20)  Other: \_\_\_\_\_

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## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. Applicant's prior art citation filed October 11, 2000 has been received, considered and placed of record.

### ***Drawings***

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: "38", "40", "46", "48", and "50". Correction is required.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 is vague and indefinite because "an exit" as recited in line 15, appears to be a double inclusion, at least in part, of the "exit aperture".

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Claim 7 is vague and indefinite because the phrase "at least one further product exit aperture". It is unclear. See claim 28 for the same informality.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-4, 7, 9-20, 23-26, 28, and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Arnold et al., in view of Yang.

Arnold et al. teach a container comprising a fitment (see Figure 2) having an outer wall (30). The fitment includes a bottom wall extending inwardly from the bottom of the outer wall (see Figure 2), and a pour spout extending upwardly from the bottom wall (26). The device comprises a bottle body extending upwardly from the bottle base to a bottle finish (see Figure 1). The finish includes an inner wall with a first locking surface, an inwardly extending locking ridge, (48, 50) abutting the outer wall of the fitment. The fitment outer wall and finish inner wall are forming a reservoir entrapping fluid product when the container is inverted. The fitment outer wall comprises a first product exit aperture (28). The fitment bottom wall includes a product drainage aperture (44). The fitment also comprises a generally annular rim (36) (see Figure 4) extending radially outwardly from the top of the outer wall. Arnold et al. lack a first

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finish locking surface having a first channel leading from the reservoir toward an exit from the bottle and a closure. Yang teaches a first finish locking surface having a first channel leading from the reservoir toward an exit from the bottle (172) (see Figure 3), and a closure (10) mating with the outer threads on the finish. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a first finish locking surface having a first channel leading from the reservoir toward an exit from the bottle to either allow air communicating with the bottle or materials exiting from the container, and a closure to ensure products remaining uncontaminated. Further, the first channel as taught by Yang, can be situated so that it will align with the exit aperture taught by Arnold et al. In addition, smaller or larger percentage of the outer wall including the upper half and the lower half compared to the area of the product exit aperture may however, be provided depending on the goods to be dispensed.

7. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over both Arnold et al. and Yang, and further in view of Greenhalgh.

Both Arnold et al. and Yang have all the features of the invention but lack a translucent bottle body. Greenhalgh teaches a bottle body that is transparent (column 1, lines 27-30). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a transparent bottle body to view the level of the materials contained within.

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***Allowable Subject Matter***

8. Claims 5-6, 8, 21-22, and 29 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thach Bui whose telephone number is (703) 305-0063. The examiner can normally be reached on Monday through Friday from 7:30 to 4:30 .

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver, can be reached on (703) 308-2582. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3588.

T.B.

*PHILIPPE DERAKSHAN*  
PHILIPPE DERAKSHAN  
PRIMARY EXAMINER

May 9, 2001

T.B. 5/9/01